

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)

MUKESH H. SHAH, M.D.)
Physician's and Surgeon's)
Certificate No. A 44952)

Respondent)
_____)

File No. D2-1997-75449

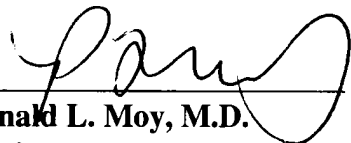
DECISION

The attached **Proposed Decision** is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 6, 2005

IT IS SO ORDERED August 5, 2005

MEDICAL BOARD OF CALIFORNIA

By: 
Ronald L. Moy, M.D.
Chair
Panel B
Division of Medical Quality

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation and
Petition to Revoke Probation Against:**

Case No. D2-1997-75449

**MUKESH H. SHAH, M.D.
1309 Robert Court
Brea, California 92621**

OAH No. L2005010444

**Physician's and Surgeon's Certificate
Number A 44952,**

Respondent.

PROPOSED DECISION

This matter came on regularly for hearing on June 2, 2005, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

David T. Thornton (Complainant) was represented by Cindy M. Lopez, Deputy Attorney General.

Mukesh H. Shah, M.D. (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was held open until June 16, 2005 for Respondent to submit the Declaration and curriculum vitae of Ashokkumar (Ashok) I. Amin, M.D., and for Complainant to serve and file a current license certification for Respondent. The Declaration of Dr. Amin was timely received and was marked and admitted as Respondent's Exhibit "N." Dr. Amin's curriculum vitae was also timely received and was marked and admitted as Respondent's Exhibit "H." The license certification was not received from Complainant. On June 16, 2005, the record was closed and the matter was deemed submitted for decision.

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FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. David T. Thornton made the Accusation and Petition to Revoke Probation in his official capacity as Executive Director of the Medical Board of California (Board).

2. On June 13, 1988, the Board issued Physician and Surgeon Certificate No. A 44952 to Respondent. The license was scheduled to expire on January 31, 2004. The evidence failed to disclose whether the license was renewed¹. However, if it was not renewed, the Board retains jurisdiction over this matter pursuant to Business and Professions Code² section 188, subdivision (b) and paragraph 15 of the Stipulated Settlement and Disciplinary Order in *In the Matter of the Accusation and Petition to Revoke Probation Against Mukesh H. Shah, M.D.*, Case No. D1-1997-75449, OAH No. L2002050303, which became effective on July 7, 2003.

3. On or about May 4, 1994, in the case of *In the Matter of the Accusation Against Mukesh H. Shah, M.D.*, Case No. D-480, the Board revoked Respondent's physician's and surgeon's certificate in connection with allegations involving sexual abuse and misconduct. The Board determined that: (1) Respondent had engaged in unprofessional conduct pursuant to sections 726 and 2234, in conjunction with California Code of Regulations, title 16, section 1360, in that he engaged in acts of sexual abuse and demonstrated an unfitness to practice in connection with his care and treatment of three female patients; (2) Respondent engaged in acts of dishonesty or corruption in connection with two of the three patients, in violation of section 2234, subdivision (e); (3) Respondent engaged in acts of dishonesty or corruption and demonstrated unfitness to practice medicine safely in connection with his care and treatment of a fourth patient, in violation of section 2234, in conjunction with California Code of Regulations, title 16, section 1360; (4) Respondent engaged in general unprofessional conduct and dishonesty or corruption in connection with two hospital pharmacy residents and with a receptionist at the medical office where Respondent was employed, in violation of sections 2234, subdivision (e), and 2234, in conjunction with California Code of Regulations, title 16, section 1360. The sexual misconduct involved Respondent's inappropriate examinations of female patients, and inappropriate touching of and comments to female patients and staff. The dishonesty involved Respondent's lying about a patient's medical condition to cover up his providing a contra-indicated medication, and Respondent's attempts to persuade nurses to participate in the cover-up.

4. In 1995, Respondent's license to practice medicine in the Commonwealth of Virginia was revoked. The revocation was based on the 1994 revocation of his California certificate.

¹ According to the Accusation and Petition to Revoke Probation, Respondent's certificate is current to January 31, 2006.

² All statutory references are to the Business and Professions Code unless otherwise indicated.

5. In a Decision effective October 2, 1998, the California Board reinstated Respondent's certificate. The certificate was immediately revoked, the revocation was stayed, and Respondent was placed on probation for a period of 10 years under various terms and conditions. Condition Number 9 stated:

OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

6. In October 2001, an Accusation and Petition to Revoke Probation was filed against Respondent in Case No. D1-1997-75449. The Accusation and Petition to Revoke Probation contained a single cause for discipline, pursuant to section 2305 and 2234, based on the discipline imposed by the Virginia Board.

7. In an order effective July 7, 2003, the Board approved a settlement of Case No. D1-1997-75449. Pursuant to that settlement agreement, Respondent's certificate was revoked, the revocation was stayed, and Respondent's probation was continued to its then (and now) current termination date of October 2, 2008, subject to various terms and conditions, among which was Condition Number 9, referenced above.

8. Respondent has made powerful strides toward rehabilitation with respect to his sexual misconduct by undergoing therapy in both inpatient and outpatient settings and by participating in Sexaholics Anonymous. He remains under the care of psychiatrist, Theodore G. Williams, M.D. Pursuant to the terms of his Board probation, he treats male patients only. Respondent has not been the subject of any reported incidents of sexual misconduct or abuse since being placed on probation.

9. On October 1, 2003, in the Superior Court of California, County of Orange, in *The People of the State of California v. Mukesh H. Shah*, Case No. 02CF1019 M A, Respondent was convicted, on his plea of guilty, of violating Penal Code section 550, subdivision (b)(1), (presenting false or misleading information on an insurance claim). The crime was originally charged as a felony but, at the request of the People, was reduced to a misdemeanor pursuant to Penal Code section 17, subdivision (b).

10. Respondent was placed on informal probation for a period of three years under various terms and conditions including incarceration for 30 days in the Orange County Jail and payment of a \$100.00 restitution fine. Respondent's incarceration was stayed pending completion of 30 days of community service, to be served in the medical field.

11. The facts and circumstances underlying the conviction are that Respondent submitted an insurance claim for a replacement automobile windshield, knowing that the price of the windshield indicated on the insurance claim was overstated by \$300.00.

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12. Respondent submitted the fraudulent insurance claim on a date after the Board reinstated his revoked license and placed him on probation, but before the California Board placed him on probation a second time, in connection with the Virginia discipline. He admits he submitted that fraudulent claim knowingly and intentionally, but he does not understand why he did so. Nonetheless, he takes full responsibility for his actions.

13. Respondent has, for several years, been a religious man who practices the Jain religion and holds a strong belief in karma. Upon committing the crime, he sought counseling and spiritual guidance at his temple. Since that time, Respondent has not suffered any other criminal convictions, and he has not been reported to have broken any laws.

14. Respondent's fraudulent act and resulting criminal conviction were anomalous and out of character for him. His religious convictions have caused him to comport himself in quite a contrary manner, with great honesty and integrity. For example, for several years, Respondent has suffered with depression of varying degrees, mostly related to the restrictions on his medical practice. His depression has, at times, become so severe as to manifest in suicidal ideation. In September 1990, Dr. Williams began recommending to Respondent that Respondent apply for disability benefits for which he was eligible. Dr. Williams made the same recommendation on three or four occasions over an extended period of time. Each time, Respondent declined to follow the recommendation because he was not working and believed it would be improper for him to seek disability benefits unless he was earning income, despite his legal eligibility. On other occasions, Respondent has chosen not to seek insurance benefits for which he was at least potentially eligible. On one such occasion, his car was struck from behind by another car driven by an adolescent driver, resulting in property damage to Respondent's vehicle. Respondent opted against filing an insurance claim for the damage because he did not want to jeopardize the other driver's driving and insurance records. On another occasion, Respondent's car was damaged during its transport from Virginia to California. The transport company failed to reimburse Respondent for the damage. Respondent chose to absorb the loss himself rather than make a claim against his comprehensive insurance coverage.

15. Benedict Ching, D.P.M. rents space to Respondent for his practice. Ashok I. Amin, M.D. is Respondent's practice monitor. Drs. Ching, Amin and Williams all consider Respondent to be an extremely honest individual. Drs. Ching and Amin lauded Respondent's willingness to provide treatment to indigent patients without compensation. During the hearing, and in Dr. Amin's declaration referenced above, Respondent was described as a caring, compassionate, generous and family-oriented individual. That impression was borne out in Respondent's own testimony and demeanor at the hearing.

16. Respondent is ashamed of his criminal conduct and is sincerely remorseful. At the hearing, he could hardly contain himself and appeared to be overwhelmed with regret and humiliation.

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17. As a second cause to revoke probation, Complainant alleged that, between July 1, 2003 and March 11, 2004, Respondent failed to submit a quarterly declaration for the period of April 1, 2003 to June 30, 2003 in violation of probationary term number 10. No evidence was offered to support that allegation. Accordingly, that allegation was not proven.

18. Although a prayer for recovery of investigation and enforcement costs was included in the Accusation and Petition to Revoke Probation, no evidence was offered to support that request. Accordingly, the prayer for cost recovery is denied.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to revoke or suspend Respondent's certificate, pursuant to Business and Professions Code sections 2234, subdivision (a) and 2236, for unprofessional conduct, in that Respondent committed a criminal offense involving fraud, as set forth in Findings 9, 10 and 11.

2. Cause exists to revoke Respondent's probation, pursuant to Business and Professions Code sections 2227, 2234, subdivision (a) and 2236, for failure to comply with terms and conditions of probation, as set forth in Findings 3, 4, 5, 6, 7, 9, 10 and 11.

3. Cause does not exist to revoke Respondent's probation, pursuant to Business and Professions Code sections 2227 and 2234, subdivision (a), for failure to comply with terms and conditions of probation, as set forth in Finding 17.

4. Cause does not exist to order Respondent to pay the costs claimed under Business and Professions Code section 125.3, as set forth in Finding 18.

5. Respondent's criminal act and his lack of insight into his reasons for committing it are puzzling in light of his excellent progress in rehabilitating himself from his sexual misconduct, his devotion to his religious beliefs, including those requiring honesty in his daily living, and his altruistic attitudes, as evidenced by his treatment of indigent patients without charge, his willingness to suffer a loss in property value in order to protect a teenager's driving record, and his rejection of disability benefits for which he was legally eligible. However, there is no question that Respondent's filing of a fraudulent insurance claim, although not done in direct connection with his medical practice, is substantially related to the practice of medicine. (*Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461.)

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6. Respondent's act of submitting a fraudulent insurance claim and the resulting criminal conviction were isolated and anomalous occurrences in his life, and quite inconsistent with his personality, beliefs and lifestyle. For that reason, without additional justification, license revocation would be an unduly harsh and punitive discipline to impose on him. However, without some additional insight into the origins of Respondent's aberrant conduct, the public safety, welfare and interest could be placed at unnecessary risk if he is permitted to continue to practice medicine. In order to avoid that risk, Respondent shall be placed on probation for an additional period of time. However, he shall be prohibited from practicing medicine pending a psychiatric examination by a psychiatrist acceptable to the Board and a finding from that psychiatrist that Respondent does not pose an unacceptable risk to the public due to his dishonesty. The terms and conditions of Respondent's current probation, directly related to sexual misconduct, shall remain in full force and effect until October 2, 2008 and shall terminate on that date unless cause for discipline and revocation of probation arises in the interim. Those terms and conditions which Respondent has already satisfied shall not be included in the current Order.

7. In addition to the other probationary terms, Respondent should be separated from his practice for a period of time to afford him the opportunity to contemplate the impropriety and seriousness of his conduct and the necessity of strict compliance with the laws and rules governing the practice of medicine.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Certificate No. A 44952 issued to Respondent, Mukesh H. Shah, M.D., is revoked. However, the revocation stayed and Respondent is placed on probation for five years upon the following terms and conditions.
2. Within 15 days after the effective date of this decision, Respondent shall provide the Division, or its designee, proof of service that Respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent or at any other facility where Respondent engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to Respondent.

This condition shall apply to any change(s) in hospitals, other facilities, or insurance carriers.

3. As part of probation, Respondent is suspended from the practice of medicine for 90 days beginning the 16th day after the effective date of this decision.

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4. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Division or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Division-appointed board certified psychiatrist, who shall consider any information provided by the Division or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report relating to Respondent's honesty to the Division or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted toward the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Division or its designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

Respondent shall not engage in the practice of medicine until notified by the Division or its designee that Respondent is mentally fit to practice medicine safely. The period of time that Respondent is not practicing medicine shall not be counted toward completion of the term of probation.

5. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Division or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Division or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Division or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Division or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division or its designee. The Division or its designee may require Respondent to undergo psychiatric evaluations by a Division-appointed board certified psychiatrist.

If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Division determines that Respondent is mentally fit to resume the practice of medicine without restrictions. Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

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Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

6. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Division or its designee for its prior approval educational program(s) or course(s) which shall not be less than 20 hours per year, for each year of probation to and including October 2, 2008. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified, limited to classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Division or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 45 hours of CME of which 20 hours were in satisfaction of this condition.

7. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Division or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Division, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent may retain his current monitor upon approval by the Division or its designee. Respondent shall pay all monitoring costs.

The Division or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

The monitor shall submit a quarterly written report to the Division or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely.

It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Division or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Division or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the Division or designee.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

This condition shall remain in effect to and including October 2, 2008.

8. Respondent is prohibited from engaging in the solo practice of medicine. This condition shall remain in effect to and including October 2, 2008.

9. Through October 2, 2008, Respondent is prohibited from practicing medicine on, seeing, or treating female patients. After the effective date of this Decision, each time a patient seeking the prohibited services makes an appointment, Respondent shall orally notify the patient that Respondent does not practice medicine on, see, or treat female patients. Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Division or its designee, and shall retain the log until and including October 2, 2008. Failure to maintain a log as defined in the section, or to make the log available for immediate inspection and copying on the premises during business hours is a violation of probation.

In addition to the required oral notification, after the effective date of this Decision, each time a patient who seeks the prohibited services presents to Respondent, Respondent shall provide a written notification to the patient stating that Respondent does not practice medicine on, see, or treat female patients. Respondent shall maintain a copy of the written notification in the patient's file, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Division or its designee, and shall retain the notification until and including October 2, 2008. Failure to maintain the written notification as defined in this section, or to make the notification available for immediate inspection and copying on the premises during business hours is a violation of probation.

10. Through October 2, 2008, Respondent shall attend at least two 12-step meetings per week (Sexaholics Anonymous). Respondent shall confirm his attendance at said meetings by affirming that he has attended the minimum required number of meetings in the quarterly declarations under penalty of perjury which are to be submitted to the Division.

11. During probation, Respondent is prohibited from supervising physician assistants.

12. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by the Division or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation and Petition to Revoke Probation, but prior to the effective date of the Decision may, in the sole discretion of the Division or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Division or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Division or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

13. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

14. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

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15. Respondent shall comply with the Division's probation unit. Respondent shall, at all times, keep the Division informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

16. Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

17. In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Psychotherapy.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California totals two years. However Respondent's license shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

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18. In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Division or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

19. Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of his license. The Division reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver his wallet and wall certificate to the Division or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

20. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Division or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.


21. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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22. Upon successful completion of probation, Respondent's certificate shall be fully restored.

23. Complainant's request for recovery of investigation and enforcement costs, pursuant to Business and Professions Code section 125.3, is denied.

DATED: July 6, 2005


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

15 MUKESH H. SHAH, M.D.
16 1309 Robert Court
17 Brea, California 92621

18 Physician and Surgeon's Certificate No. A
19 44952,

20 Respondent.

Case No. D2-1997-75449

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

21 Complainant alleges:

22 **PARTIES**

23 1. David T. Thornton (Complainant) brings this Accusation and Petition to
24 Revoke Probation solely in his official capacity as the Interim Executive Director of the Medical
25 Board of California ("Board").

26 2. On or about June 13, 1988, the Board issued Physician and Surgeon's
27 Certificate No. A 44952 to Mukesh H. Shah, M.D. ("Respondent"). The certificate was in effect
28 at all times relevant to the charges brought herein, and will expire on January 31, 2006, unless
renewed.

3. In a disciplinary action entitled "In the Matter of Accusation and Petition
to Revoke Probation Against Mukesh H. Shah, M.D.," Case No. D1-1997-75449, the Board's

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 23, 2001
BY Valerie Moore ANALYST

1 Division of Medical Quality issued a decision, effective July 7, 2003, in which Respondent's
2 Physician and Surgeon's Certificate was revoked. However, the revocation was stayed and
3 Respondent's certificate was placed on probation for a period of five (5) years or until October 2,
4 2008, with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
5 incorporated by reference.

6 JURISDICTION

7 4. This Accusation and Petition to Revoke Probation is brought before the
8 Board's Division of Medical Quality ("Division"), under the authority of the following laws. All
9 section references are to the Business and Professions Code unless otherwise indicated.

10 5. Section 2004 of the Code states:

11 "The Division of Medical Quality shall have the responsibility for the following:

12 "(a) The enforcement of the disciplinary and criminal provisions of the Medical
13 Practice Act.

14 "(b) The administration and hearing of disciplinary actions.

15 "(c) Carrying out disciplinary actions appropriate to findings made by a medical
16 quality review committee, the division, or an administrative law judge.

17 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion
18 of disciplinary actions.

19 "(e) Reviewing the quality of medical practice carried out by physician and
20 surgeon certificate holders under the jurisdiction of the board."

21 6. Section 2227 of the Code provides that a licensee who is found guilty
22 under the Medical Practice Act may have his or her license revoked, suspended for a period not
23 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
24 such other action taken in relation to discipline as the Division deems proper.

25 7. Section 2228 of the Code states:

26 "The authority of the board or a division of the board or the California Board of
27 Podiatric Medicine to discipline a licensee by placing him or her on probation includes,
28 but is not limited to, the following:

1 “(a) Requiring the licensee to obtain additional professional training and to pass
2 an examination upon the completion of the training. The examination may be written or
3 oral, or both, and may be a practical or clinical examination, or both, at the option of the
4 board or division or the administrative law judge.

5 “(b) Requiring the licensee to submit to a complete diagnostic examination by
6 one or more physicians and surgeons appointed by the division. If an examination is
7 ordered, the board or division shall receive and consider any other report of a complete
8 diagnostic examination given by one or more physicians and surgeons of the licensee's
9 choice.

10 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee,
11 including requiring notice to applicable patients that the licensee is unable to perform the
12 indicated treatment, where appropriate.

13 “(d) Providing the option of alternative community service in cases other than
14 violations relating to quality of care, as defined by the Division of Medical Quality.”

15 8. Section 2234 of the Code states:

16 "The Division of Medical Quality shall take action against any licensee who is
17 charged with unprofessional conduct. In addition to other provisions of this article,
18 unprofessional conduct includes, but is not limited to, the following:

19 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
20 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
21 the Medical Practice Act].

22 "(b) Gross negligence.

23 "(c) Repeated negligent acts. To be repeated, there must be two or more
24 negligent acts or omissions. An initial negligent act or omission followed by a separate
25 and distinct departure from the applicable standard of care shall constitute repeated
26 negligent acts.

27 "(1) An initial negligent diagnosis followed by an act or omission medically
28 appropriate for that negligent diagnosis of the patient shall constitute a single negligent

1 act.

2 "(2) When the standard of care requires a change in the diagnosis, act, or
3 omission that constitutes the negligent act described in paragraph (1), including, but not
4 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
5 conduct departs from the applicable standard of care, each departure constitutes a separate
6 and distinct breach of the standard of care.

7 "(d) Incompetence.

8 "(e) The commission of any act involving dishonesty or corruption which is
9 substantially related to the qualifications, functions, or duties of a physician and surgeon.

10 "(f) Any action or conduct which would have warranted the denial of a
11 certificate."

12 9. Section 2236 of the Code states:

13 "(a) The conviction of any offense substantially related to the qualifications,
14 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
15 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of
16 conviction shall be conclusive evidence only of the fact that the conviction occurred.

17 "(b) The district attorney, city attorney, or other prosecuting agency shall notify
18 the Division of Medical Quality of the pendency of an action against a licensee charging a
19 felony or misdemeanor immediately upon obtaining information that the defendant is a
20 licensee. The notice shall identify the licensee and describe the crimes charged and the
21 facts alleged. The prosecuting agency shall also notify the clerk of the court in which the
22 action is pending that the defendant is a licensee, and the clerk shall record prominently
23 in the file that the defendant holds a license as a physician and surgeon.

24 "(c) The clerk of the court in which a licensee is convicted of a crime shall,
25 within 48 hours after the conviction, transmit a certified copy of the record of conviction
26 to the board. The division may inquire into the circumstances surrounding the
27 commission of a crime in order to fix the degree of discipline or to determine if the
28 conviction is of an offense substantially related to the qualifications, functions, or duties

1 of a physician and surgeon.

2 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
3 deemed to be a conviction within the meaning of this section and Section 2236.1. The
4 record of conviction shall be conclusive evidence of the fact that the conviction
5 occurred.”

6 10. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
7 part:

8 “(a) Upon receipt of written notice from the Medical Board of California, the
9 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
10 that a licensee's license has been placed on probation as a result of a disciplinary action,
11 the department may not reimburse any Medi-Cal claim for the type of surgical service or
12 invasive procedure that gave rise to the probation, including any dental surgery or
13 invasive procedure, that was performed by the licensee on or after the effective date of
14 probation and until the termination of all probationary terms and conditions or until the
15 probationary period has ended, whichever occurs first. This section shall apply except in
16 any case in which the relevant licensing board determines that compelling circumstances
17 warrant the continued reimbursement during the probationary period of any Medi-Cal
18 claim, including any claim for dental services, as so described. In such a case, the
19 department shall continue to reimburse the licensee for all procedures, except for those
20 invasive or surgical procedures for which the licensee was placed on probation.”

21 11. Section 125.3 of the Code provides, in pertinent part, that the Division
22 may request the administrative law judge to direct a licensee found to have committed a
23 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
24 investigation and enforcement of the case.

25 CAUSE FOR DISCIPLINE

26 12. Respondent is subject to disciplinary action under sections 2234,
27 subdivision (a) and 2236 of the Code, in that respondent engaged in unprofessional conduct, to
28 wit: commission of a criminal offense involving fraud. The circumstances are as follows:

1 A. On or about April 22, 2002, in *People v. Mukesh H. Shah*,
2 Superior Court of Orange County, Case No. 02CF1019 M A, respondent was charged
3 with violating Penal Code section 550, subdivision (b)(1), a felony, in that he willfully
4 presented or caused to be presented a written statement as part of, or in support of, a
5 claim for payment to an insurance policy, knowing that the statement contained false or
6 misleading information concerning a material fact, to wit: a windshield replacement
7 invoice indicating a cost of \$420.00 when the actual cost of replacement was \$120.00.

8 B. On or about October 1, 2003, in *People v. Mukesh H. Shah*,
9 Superior Court of Orange County, Case No. 02CF1019 M A, respondent provided a
10 signed statement admitting that on November 7, 2001, he provided a false claim
11 statement to his insurance company. On the same date, the charge was reduced to a
12 misdemeanor, and respondent changed his plea from "not guilty" to "guilty." Following
13 the court's acceptance of this change of plea, imposition of sentence was suspended, and
14 respondent was placed on three years of informal probation, which required him to obey
15 all laws and serve thirty days in jail or complete thirty days of community service by
16 March 29, 2004, among other conditions.

17 FIRST CAUSE TO REVOKE PROBATION

18 (Obey All Laws)

19 13. At all times after the effective date of Respondent's probation, Condition
20 Nine stated:

21 "Respondent shall obey all federal, state and local laws, all rules governing the
22 practice of medicine in California, and remain in full compliance with any court
23 ordered criminal probation, payments and other orders."

24 14. Respondent's probation is subject to revocation because he failed to
25 comply with Probation Condition Nine, referenced above. The facts and circumstances regarding
26 this violation are as follows:

27 A. On or about April 22, 2002, in *People v. Mukesh H. Shah*,
28 Superior Court of Orange County, Case No. 02CF1019 M A, respondent was charged

1 with violating Penal Code section 550, subdivision (b)(1), a felony, in that he willfully
2 presented or caused to be presented a written statement as part of, or in support of, a
3 claim for payment to an insurance policy, knowing that the statement contained false or
4 misleading information concerning a material fact, to wit: a windshield replacement
5 invoice indicating a cost of \$420.00 when the actual cost of replacement was \$120.00.

6 B. On or about October 1, 2003, in *People v. Mukesh H. Shah*,
7 Superior Court of Orange County, Case No. 02CF1019 M A, respondent provided a
8 signed statement admitting that on November 7, 2001, he provided a false claim
9 statement to his insurance company. On the same date, the charge was reduced to a
10 misdemeanor, and respondent changed his plea thereto from "not guilty" to "guilty."
11 Following the court's acceptance of this change of plea, imposition of sentence was
12 suspended, and respondent was placed on three years of informal probation, which
13 required him to obey all laws and serve thirty days in jail or complete thirty days of
14 community service by March 29, 2004, among other conditions.

15 SECOND CAUSE TO REVOKE PROBATION

16 (Quarterly Reports)

17 15. At all times after the effective date of Respondent's probation, Condition
18 Ten stated:

19 "Respondent shall submit quarterly declarations under penalty of perjury on forms
20 provided by the Division, stating whether there has been compliance with all the
21 conditions of probation."

22 16. Respondent's probation is subject to revocation because he failed to
23 comply with Probation Condition Ten, referenced above. The facts and circumstances regarding
24 this violation are as follows:

25 B. On or about and between July 1, 2003 and March 11, 2004,
26 respondent failed to submit a quarterly declaration for the period April 1 to June 30,
27 2003.

28 ///

1 DISCIPLINE CONSIDERATIONS

2 17. To determine the degree of discipline, if any, to be imposed on respondent,
3 it is alleged that on or about May 4, 1994, in a prior disciplinary action entitled *In the*
4 *Matter of the Accusation Against Mukesh H. Shah, M.D.* before the Division of Medical
5 Quality, Medical Board of California, in Case No. D-480, respondent's license was
6 revoked for sustained allegations involving sexual abuse and misconduct. That decision
7 is now final and is incorporated by reference as if fully set forth. On or about October 2,
8 1998, respondent's petition for reinstatement in the same case was granted on condition
9 that he serve a probation of ten years.

10 DISCIPLINE CONSIDERATIONS

11 18. To determine the degree of discipline, if any, to be imposed on respondent,
12 it is alleged that on or about July 7, 2003, in a prior disciplinary action entitled *In the*
13 *Matter of the Accusation and Petition to Revoke Probation Against Mukesh H. Shah,*
14 *M.D.* before the Division of Medical Quality, Medical Board of California, in Case No.
15 D1-1997-75449, respondent's license was subjected to a probationary term amended to
16 include additional conditions for a sustained allegation of prior, out-of-state (i.e.,
17 Virginia) disciplinary action involving sustained allegations of failing to comply with a
18 probationary order by engaging in improper conduct with female patients. That decision
19 is now final and is incorporated by reference as if fully set forth.

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1. Revoking the probation that was granted by the Medical Board of California in Case No. D1-1997-75449 and imposing the disciplinary order that was stayed thereby revoking Physician and Surgeon's Certificate No. A 44952 issued to Mukesh H. Shah, M.D. ;

3. Revoking, suspending or denying approval of Mukesh H. Shah, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

4. Ordering Mukesh H. Shah, M.D. to pay the Division of Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

DATED: June 23, 2004

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Exhibit A
Decision and Order
Medical Board of California Case No. D1-1997-75449

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation against:

MUKESH H. SHAH, M.D.

Physician & Surgeon
Certificate No.: A-44952

Respondent.

Case No.: # D1-1997-75449

**ORDER CORRECTING CLERICAL ERROR IN
"LICENSE NUMBER" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereinafter "Board") finds that there is a clerical error in the "license number" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the license number will conform to the Board's issued license.

IT IS HEREBY ORDERED that the license number contained on the Decision Order Page in the above-entitled matter is hereby amended and corrected nunc pro tunc as of the date of entry of the decision to read as "A-44952".

Dated: July 2, 2003.



Joan M. Jerzak, Chief of Enforcement
Division of Medical Quality
Medical Board of California

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

MUKESH H. SHAH, M.D.
1309 Robert Court
Brea, CA 92621

Physician's and Surgeon's Certificate No.
A55952

Respondent.

Case No. D1-1997-75449


OAH No. L 2002- 050303

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 7, 2003 at 5:00 p.m.

It is so ORDERED June 5, 2003.



FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Ronald H. Wender, M.D.
Chair, Panel B

1 BILL LOCKYER, Attorney General
of the State of California
2 CINDY M. LOPEZ, State Bar No. 119988
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-7373
5 Facsimile: (213) 897-1071

6 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against:

14 MUKESH H. SHAH, M.D.
15 1309 Robert Court
16 Brea, CA 92621

17 Physician's and Surgeon's Certificate No.
18 A55952

19 Respondent.

Case No. D1-1997-75449

OAH No. L 2002- 050303

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
21 above-entitled proceedings that the following matters are true:

22 PARTIES

23 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board
24 of California. He brought this action solely in his official capacity and is represented in this
25 matter by Bill Lockyer, Attorney General of the State of California, by Cindy M. Lopez, Deputy
26 Attorney General.

27 2. Mukesh H. Shah, M.D. (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 13, 1988, the Medical Board of California issued
Physician's and Surgeon's Certificate No. A55952 to Mukesh H. Shah, M.D. (Respondent). The

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
2 and Petition to Revoke Probation No. D1-1997-75449 and will expire on January 31, 2002,
3 unless renewed.

4 JURISDICTION

5 4. Accusation and Petition to Revoke Probation No. D1-1997-75449 was
6 filed before the Division of Medical Quality (Division) for the Medical Board of California,
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and Petition to Revoke Probation and all other statutorily required documents were properly
9 served on Respondent on October 9, 2001. Respondent timely filed his Notice of Defense
10 contesting the Accusation and Petition to Revoke Probation. A copy of Accusation and Petition
11 to Revoke Probation No. D1-1997-75449 is attached as exhibit A and incorporated herein by
12 reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, and understands the charges and
15 allegations in Accusation and Petition to Revoke Probation No. D1-1997-75449. Respondent
16 has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary
17 Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the
19 right to a hearing on the charges and allegations in the Accusation and Petition to Revoke
20 Probation; the right to be represented by counsel at his own expense; the right to confront and
21 cross-examine the witnesses against him; the right to present evidence and to testify on his own
22 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
23 production of documents; the right to reconsideration and court review of an adverse decision;
24 and all other rights accorded by the California Administrative Procedure Act and other applicable
25 laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
27 each and every right set forth above.
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CULPABILITY

8. Respondent admits that he voluntarily surrendered his license in Virginia in 1999 due to probation violations.

9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Division of Medical Quality (Division) 's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Division may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A55952 issued to Respondent Mukesh H. Shah, M.D. is revoked. However, the revocation is stayed and Respondent will continue his current probationary period until October 2, 2008 on the following terms and conditions.

1 Within 15 days after the effective date of this decision the respondent shall
2 provide the Division, or its designee, proof of service that respondent has served a true copy of
3 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where
4 privileges or membership are extended to respondent or at any other facility where respondent
5 engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier
6 where malpractice insurance coverage is extended to respondent.

7 1. EDUCATION COURSE Within ninety (90) days of the effective date of
8 this decision, and on an annual basis thereafter, respondent shall submit to the Division or its
9 designee for its prior approval an educational program or course to be designated by the Division
10 or its designee which shall be aimed at correcting any areas of deficient practice or knowledge
11 which shall not be less than 20 hours per year, for each year of probation. This program shall be
12 in addition to the Continuing Medical Education (CME) requirements for re-licensure.
13 Following the completion of each course, the Division or its designee may administer an
14 examination to test respondent's knowledge of the course. Respondent shall provide proof of
15 attendance for 45 hours of continuing medical education of which 20 hours were in satisfaction
16 of this condition and were approved in advance by the Division or its designee.

17 2. PACE PROFESSIONAL BOUNDARIES COURSE Within sixty (60)
18 days from the effective date of this decision, respondent, at his expense, shall enroll in
19 Professional Boundaries Course offered through The Physician Assessment and Clinical
20 Education Program at the University of California, San Diego School of Medicine (hereinafter
21 the "Professional Boundaries Course").

22 Respondent shall complete the Professional Boundaries Course within the year
23 2003, unless the Division or its designee agrees in writing to a later time for completion.

24 If respondent successfully completes the Professional Boundaries Course, he
25 agrees to cause the PACE Program representative to forward a Certification of Successful
26 Completion of the program to the Division or its designee. If respondent fails to successfully
27 complete the PACE Professional Boundaries Course within the time limits outlined above, he
28 shall be suspended from the practice of medicine.

1 3. PACE CULTURAL DIVERSITY COURSE Within nine months of the
2 effective date of this decision, respondent, at his expense, shall enroll in Cultural Diversity
3 Course offered through The Physician Assessment and Clinical Education Program at the
4 University of California, San Diego School of Medicine (hereinafter the "Cultural Sensitivity
5 Course").

6 Respondent shall complete the Cultural Diversity Course by June 2004, unless the
7 Division or its designee agrees in writing to a later time for completion.

8 If respondent successfully completes the Cultural Diversity Course, he agrees to
9 cause the PACE Program representative to forward a Certification of Successful Completion of
10 the program to the Division or its designee. If respondent fails to successfully complete the
11 PACE Cultural Diversity Course within the time limits outlined above, he shall be suspended
12 from the practice of medicine.

13 4. PSYCHOTHERAPY Within thirty (30) days of the effective date of this
14 decision, respondent shall submit to the Division or its designee for its prior approval the name
15 and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall
16 undergo and continue treatment until the Division or its designee deems that no further
17 psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly
18 status reports to the Division or its designee. The Division or its designee may require
19 respondent to undergo psychiatric evaluations by a Division-appointed psychiatrist. If, prior to
20 the termination of probation, respondent is found not to be mentally fit to resume the practice of
21 medicine without restrictions, the Division shall retain continuing jurisdiction over the
22 respondent's license and the period of probation shall be extended until the Division determines
23 that the respondent is mentally fit to resume the practice of medicine without restrictions. The
24 respondent shall pay the cost of the therapy and evaluations.

25 5. MONITORING Within thirty (30) days of the effective date of this
26 decision, respondent shall submit to the Division or its designee for its prior approval a plan of
27 practice in which respondent's practice shall be monitored by another physician in respondent's
28 field of practice, who shall provide periodic reports to the Division or its designee.

1 If the monitor resigns or is no longer available, respondent shall, within fifteen
2 (15) days, move to have a new monitor appointed, through nomination by respondent and
3 approval by the Division or its designee.

4 Respondent is prohibited from engaging in solo practice.

5 6. PROHIBITED PRACTICE - During probation, respondent is prohibited
6 from practicing seeing or treating female patients. At the earliest opportunity, respondent shall
7 inform applicable patients that respondent is unable to perform an indicated treatment or
8 procedure.

9 7. 12-STEP PROGRAM During probation, respondent shall attend at least
10 2- 12 step meetings per week (Sexaholics Anonymous) for the duration of probation.
11 Respondent shall confirm his attendance at said meetings by affirming that he has attended the
12 minimum required number of meetings in the quarterly declarations under penalty of perjury
13 which are to be submitted to the Division.

14 8. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
15 respondent is prohibited from supervising physician assistants.

16 9. OBEY ALL LAWS Respondent shall obey all federal, state and local
17 laws, all rules governing the practice of medicine in California, and remain in full compliance
18 with any court ordered criminal probation, payments and other orders.

19 10. QUARTERLY REPORTS Respondent shall submit quarterly
20 declarations under penalty of perjury on forms provided by the Division, stating whether there
21 has been compliance with all the conditions of probation.

22 11. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
23 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
24 at all times, keep the Division informed of his business and residence addresses which shall both
25 serve as addresses of record. Changes of such addresses shall be immediately communicated in
26 writing to the Division. Under no circumstances shall a post office box serve as an address of
27 record, except as allowed by Business and Professions Code section 2021(b).

28 Respondent shall, at all times, maintain a current and renewed physician's and

1 surgeon's license.

2 Respondent shall also immediately inform the Division, in writing, of any travel
3 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
4 than thirty (30) days.

5 12. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
6 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
7 Division, its designee or its designated physician(s) upon request at various intervals and with
8 reasonable notice.

9 13. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
10 STATE NON-PRACTICE In the event respondent should leave California to reside or to
11 practice outside the State or for any reason should respondent stop practicing medicine in
12 California, respondent shall notify the Division or its designee in writing within ten (10) days of
13 the dates of departure and return or the dates of non-practice within California. Non-practice is
14 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
15 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
16 spent in an intensive training program approved by the Division or its designee shall be
17 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
18 shall not be considered as a period of non-practice. Periods of temporary or permanent residence
19 or practice outside California or of non-practice within California, as defined in this condition,
20 will not apply to the reduction of the probationary order.

21 14. COMPLETION OF PROBATION Upon successful completion of
22 probation, respondent's certificate shall be fully restored.

23 15. VIOLATION OF PROBATION If respondent violates probation in any
24 respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke
25 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
26 revoke probation is filed against respondent during probation, the Division shall have continuing
27 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
28 is final.

1 16. COST RECOVERY The respondent is hereby ordered to reimburse the
2 Division the amount of \$10,047 for Payments past due. Respondent must pay this amount within
3 the next three years. Failure to reimburse the Division's cost of investigation and prosecution
4 shall constitute a violation of the probation order, unless the Division agrees in writing to
5 payment by an installment plan because of financial hardship. The filing of bankruptcy by the
6 respondent shall not relieve the respondent of his responsibility to reimburse the Division for its
7 investigative and prosecution costs.

8 17. PROBATION COSTS Respondent shall pay the costs associated with
9 probation monitoring each and every year of probation, as designated by the Division, which are
10 currently set at \$2,314, but may be adjusted on an annual basis. Such costs shall be payable to
11 the Division of Medical Quality and delivered to the designated probation surveillance monitor
12 no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due
13 date shall constitute a violation of probation.

14 18. LICENSE SURRENDER Following the effective date of this decision, if
15 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
16 the terms and conditions of probation, respondent may voluntarily tender his certificate to the
17 Board. The Division reserves the right to evaluate the respondent's request and to exercise its
18 discretion whether to grant the request, or to take any other action deemed appropriate and
19 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
20 will not longer be subject to the terms and conditions of probation.

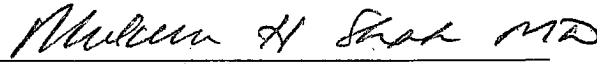
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate.

I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Division of Medical Quality, Medical Board of California.

DATED: 4-1-2003

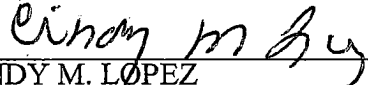

MUKESH H. SHAH, M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: 4.22.03

BILL LOCKYER, Attorney General
of the State of California


CINDY M. LOPEZ
Deputy Attorney General

Attorneys for Complainant